



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Assistant Secretary for Communications**  
**and Information**  
Washington, D.C. 20230

AUG 12 1997

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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Re: Petition for Expedited Rulemaking by LCI International  
Telecom Corp. and Competitive Telecommunications  
Association, RM 9101

Dear Chairman Hundt:

I am writing to offer the views of the National Telecommunications and Information Administration (NTIA) on the above-captioned petition for rulemaking, in which LCI International (LCI) and the Competitive Telecommunications Association (Comptel) ask the Commission to establish nationwide performance standards for the operations support systems (OSS) that incumbent local exchange carriers (ILECs) make available to competitive local exchange carriers (CLECs).

The Commission has defined OSS to "include those systems and databases required for pre-ordering, ordering, provisioning, maintenance and repair, and billing" of resold local exchange services and unbundled network elements.<sup>1/</sup> It has also concluded that "competitors' ability to provide service successfully would be significantly impaired if they did not have access to incumbent LECs' operations support systems functions."<sup>2/</sup> Consequently, the Commission has required an ILEC to provide CLECs with access to OSS functions on the same terms and conditions as the ILEC makes such functions available to itself or its customers.<sup>3/</sup>

NTIA believes that the Commission's actions to date concerning OSS are fully consistent with the pro-competitive thrust of the Telecommunications Act of 1996. An essential feature of a competitive market is the ability of customers to change service providers easily, quickly, and without any loss in service or any snafus in billing. There is ample evidence,

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<sup>1/</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499, 15752, ¶ 505 (1996) (Local Competition Order).

<sup>2/</sup> Id. at 15766, ¶ 522.

<sup>3/</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Second Order of Reconsideration, 11 FCC Rcd 19738, 19742-19743, ¶ 9 (1996).

moreover, that customers will demand a certain minimum level of service provisioning, quality, and reliability before they will view a competing telecommunications service as a viable alternative to that which they receive from their serving ILEC. Because the ILECs' OSS functions are essential to ensuring that CLECs can furnish services that satisfy those customer expectations, CLEC access to ILEC OSS capabilities on a reasonable, nondiscriminatory basis is necessary to foster the competitive local market environment that Congress envisioned.

The framework established by the 1996 Act suggests that the particular terms and conditions of OSS access should be negotiated by CLECs and ILECs under the supervision of government regulators. There are likely to be significant differences in bargaining power between incumbent ILECs and prospective entrants, however. Consequently, a purely contractual model will probably not assure the access to ILEC OSS functions needed to foster meaningful competitive entry. Thus, as was the case with respect to ILEC provisioning of interconnection and unbundled network elements, the Commission should consider adopting minimum requirements to guide the commercial relationships between the negotiating parties.<sup>4/</sup>

In adopting such requirements, the Commission should work closely with State regulators. As the government agencies primarily responsible for regulating ILECs, and as the entities charged by Congress with overseeing the interconnection negotiations between ILECs and CLECs, State commissions likely possess considerable knowledge and experience with OSS issues that could prove valuable to the Commission's deliberations. Making the adoption of minimum OSS standards a joint effort between Federal and State regulators also would reduce the potential for jurisdictional disputes that could hinder the development of such standards and, thereby, slow the growth of local competition.

The Commission should look for assistance from industry as well. The Alliance for Telecommunications Industry Solutions (ATIS) has sponsored and the American National Standards Institute has accredited three principal groups for national standards setting. LCI states that these groups "are well positioned to resolve which interfaces and formats are reasonably necessary and practical for each particular OSS function or sub-

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<sup>4/</sup> The court of appeal's decision in Iowa Utilities Bd. v. FCC would not bar the Commission from prescribing such requirements. Indeed, the court specifically upheld the Commission's conclusion that OSS functions are network elements that ILECs must furnish to CLECs on an unbundled basis. The Commission authority to require such unbundling must also include the power to fix some basic standards as to how those OSS functions must be provided.

function" and "have made substantial progress" on some OSS issues.<sup>5/</sup> The Commission and the States will increase their chances of fashioning effective OSS requirements and building industry-wide support for those specifications if it draws on the activities and expertise of these organizations.

NTIA therefore recommends that the Commission grant the LCI/Comptel petition and commence a formal proceeding to address OSS issues. That proceeding should consider, at a minimum, two fundamental aspects of OSS access. The first concerns performance standards and performance measures, which are crucial to ensuring ILEC compliance with their obligations. Quite simply, the Commission's requirement that ILECs give CLECs access to OSS functions on the same terms and conditions as the ILEC itself receives them will mean nothing unless the Commission (1) knows what level of service (in terms of installation, reliability, and the like) is important to customers (and, thus, necessary for competitors to provide) and (2) has some means of assessing how well ILECs meet those requirements in servicing CLECs, as compared to its own operations.

The second area concerns technical standards for OSS, such as the interfaces that allow electronic communication between the ILECs' OSS and those of CLECs. Given the wide variations between the "legacy" systems currently operated by the ILECs and the extensive modifications that will likely be necessary to make those systems adequate for a competitive local marketplace, the Commission should not expect nationwide technical standards for OSS to develop as quickly as fundamental performance standards and performance measures.

NTIA believes that the Commission should rely on existing standards bodies to fashion technical standards for OSS access. The Commission should, however, impress upon those entities the need to conclude their work expeditiously. It should also prepare to act on its own should they fail to do so.

As for OSS performance standards, NTIA agrees with LCI and others that a negotiated rulemaking could be a workable

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<sup>5/</sup> Petition for Rulemaking by LCI International Telecom Corp. and Competitive Telecommunications Association at 22, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (filed May 30, 1997) (quoting Direct Testimony of Ronald Martinez on Behalf of MCI Telecommunications Corp. Before the Georgia Public Service Corp. at 9-10, Docket No. 6863-U (Feb. 14, 1997)).

approach.<sup>6/</sup> LCI has also offered some useful suggestions on the membership of the industry group that would work to develop such standards, most notably LCI's recommendation that State policymakers be well-represented on the panel. The Commission should empower the negotiating committee to gather from industry whatever data or other information the committee deems necessary to assist in its deliberations. More importantly, the Commission should set a strict deadline for committee action and should make clear that it will adopt performance standards if the committee fails to do so within the designated time.<sup>7/</sup>

When the negotiating committee has completed its work, the Commission should take whatever action it deems appropriate. It could, for example, incorporate the performance standards and measurements adopted by the committee into formal Commission regulations that would apply to all ILECs in the event that State commissions do not prescribe standards that are consistent with the Federal requirements. Alternatively, the Commission could induce ILECs to adhere voluntarily to those requirements by conditioning certain regulatory relief on such compliance. The Commission could, for example, take a Bell Operating Company's compliance with Federal OSS requirements into account when the Commission reviews the BOC's Section 271 application to provide interLATA service.<sup>8/</sup> The Commission could also hold that compliance with such requirements is evidence that the ILEC is permitting competitive entry into its local market, thereby warranting some relaxation of Commission regulation of that ILEC's interstate services.

NTIA believes that a Commission rulemaking conducted in accordance with the principles and procedures outlined above will produce reasonable, sustainable OSS requirements that will

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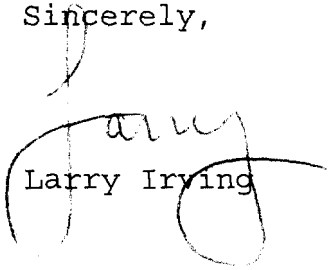
6/ LCI International Telecom Corp. Comments on Public Notice Concerning Petition for Expedited Rulemaking To Establish Reporting Requirements and Performance and Technical Standards for Operation Support Systems at 3-4, App. A at 5-6, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, RM 9101 (filed July 10, 1997).

7/ See Comments of the Competition Policy Institute at 8, Petition for Expedited Rulemaking To Establish Reporting Requirements and Performance and Technical Standards for Operations Support Systems, RM 9101 (filed July 10, 1997).

8/ See Comments in Support of LCI-Comptel's Petition for Expedited Rulemaking by the Association for Local Telecommunications Services at 12, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98 (filed July 10, 1997).

promote local competition without interfering unnecessarily with the commercial negotiations between ILECs and CLECs. Thank you for considering these views.

Sincerely,



Larry Irving

cc: Commissioner James H. Quello  
Commissioner Rachelle B. Chong  
Commissioner Susan Ness